IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 11TH DECEMBER 2006 / 20TH AGRAHAYANA 1928

RCRev..No. 432 of 2006()

{R.C.A.NO.1/2006 OF THE RENT CONTROL APPELLATE AUTHORITY, THRISSUR IN (IA 4864/2004 IN R.C.P.NO.98/2003 OF THE RENT CONTROL COURT,THRISSUR
.....

REVISION PETITIONER/APPELLANTS/PETITIONERS:
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1. RAFI, S/O.KURUTHUKULANGARA VAREED,
   ANTHIKKAD VILLAGE AND DESOM,
   THIRSSUR TALUK.

2. SEBASTIAN, S/O.VADAKKETHALA
   THYVALAPPIL CHAKKU, ELTHURUTHU DESOM,
   ARANATTUKKARA VILLAGE, THRISSUR TALUK.

BY ADV. SRI.P.VIJAYA BHANU
SMT.K.S.CHANDRIKA

RESPONDENT/RESPONDENT/PETITIONER:

FRANCIS, S/O.PORATHUKKARAN LONAPPAN,
OLARIKKARA DESOM, ARANATTUKKARA VILLAGE,
THRISSUR TALUK.

BY

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 11/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.A.ABDUL GAFOOR &
K.R.UDAYABHANU, JJ.

R.C.R.No.432 of 2006

Dated this the 11th day of December, 2006.

O R D E R

Udayabhanu, J.

The petitioners/tenants in R.C.P.No.98/03 in the file of the Rent Control Court, Thrissur had filed I.A.No.4864/04 raising a preliminary objection that the petitioners are not the sub tenants. The Rent Controller dismissed the application entering into a clear finding that the second respondent is not a tenant under the landlord and that his position would squarely come within the purview of Section 11(4)(i) of the Kerala Buildings (Lease and Rent Control) Act [Act 2 of 1965] {hereinafter referred to as '**the Act**'}. All the same the appellate authority set aside the above observing that it was rather premature and that a finding has to be arrived at after full adjudication of the matter, after adducing evidence. It is the above judgment of the appellate authority that has been called in question in this revision petition.

2. Counsel for the petitioners have relied on the decision reported in **Jamal v. Safia Beevi {2005(2) K.L.T. 359},** wherein this court has held that the landlord cannot combine different causes of action in a single petition filed against various tenants whether they are in occupation of the same building or different buildings. This court, in the above cited decision, upheld the action of the landlord in filing the petition against different tenants under Section 11(4)(iv) of the Act. The grounds raised in the above cited case was under Sections 11 (2) and 11(3)(iv) and 11(8) of the Act.

3. We find that, in the instant case, the situation is entirely different. Here, the allegation is sub-letting. The appellate authority has only saved the revision petitioners from the possibly foreclosed finding of the Rent Control Court that in the instant case the 2nd respondent is a sub-tenant. The same

has been set right by the appellate authority. We find no scope for interference. The matter can be decided only after adducing evidence.

In the circumstances, the revision petition is dismissed.

Sd/-
(K.A.ABDUL GAFOOR)
JUDGE

Sd/-
(K.R.UDAYABHANU)
JUDGE

sk/

//true copy//

P.S. To Judge

K.A.ABDUL GAFOOR &
K.R.UDAYABHANU, JJ.

R.C.R.No.432 of 2006

O R D E R

11th December, 2006.